GREATER BENGALURU AUTHORITY
BENGALURU CENTRAL CITY CORPORATION

TENDER DOCUMENT
(SERVICE)

Office of the
Senior Assistant Director of Horticulture (Zone-01)
Bengaluru Central City Corporation,
17th floor, Public Utility Building, MG Road, Bangalore -560001

TENDERS FOR THE WORK OF	**:**	Maintenance of Parks in Ward No.23 Jogupalya
TENDER REFERENCE	:	SADH(Zone-01)TENDER/PR/61/2026-27 Dated: 22/06/2026
PERIOD OF SALE OF TENDER DOCUMENT	:	View e-procurement Portal
LAST DATE FOR SALE OF TENDER DOCUMENT	:	View e-Procurement Portal
LAST DATE AND TIME FOR RECEIPT OF TENDERS	:	View e-procurement Portal
TIME AND DATE OF OPENING OF TENDERS	:	will be intimated to the qualified Tenderers
PLACE OF OPENING OF TENDERS ADDRESS FOR COMMUNICATION	}	Senior Assistant Director of Horticulture (Zone-01) Bengaluru Central City Corporation, 17th floor, Public Utility Building, MG Road, Bangalore -560001

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BENGALURU CENTRAL CITY CORPORATION

Senior Assistant Director of Horticulture (Zone-1)
17th Floor, Public Utility Building, MG Road, Bangalore -560001

No: SADH(Zone-01)TENDER/ 61 /2026-27 Dated:22/06/2026

LETTER OF INVITATION FOR TENDER(IFT)

(SHORT TERM)

(SINGLE COVER SYSTEM)

(Through **GOK e–Procurement Portal** only)

A) The Senior Assistant Director of Horticulture (Zone-01)B.C.C.C, (Referred to as Employer in these documents) invites tenders to Implement in accordance with KTPP rules 2000, from eligible and experienced Person/Agencies / Firms (Referred to as Tenderers in these documents) registered in Labour department for Maintenance of Parks.

B) The tenderers are advised to note the minimum qualification criteria specified in Clause 3 of the instructions to tenderers to qualify for award of the contract (standard tender document KW-1, KW-2 KW-3 & KW-4).

C) Tender documents may be downloaded from Government of Karnataka e-Procurement website **https://kppp.karnataka.gov.in/#/portal/portal-home**under login for Contractors.

D) After login to Contractors, Please scroll down to the left side bottom to see List of Tenders, Please click there to find the details of NIT & download copy of the tender. The tender can be downloaded in the portal as per prescribed date and time published in the portal. Only Interested Tenderer who wish to participate should remit on line transaction fee for tender after registering in the portal. The transaction fee is non-refundable.

E) Tenders must be accompanied by earnest money deposit (EMD) specified for the work in the table below. EMD will have to be submitted online through website**https://kppp.karnataka.gov.in.**

F) Tenders must be electronically submitted (online) within the date and time published in e-procurement portal. Tenders will be opened at prescribed time and date in the e-procurement portal, in the presence of the Tenderers who wish to attend in the Office of The Senior Assistant Director of Horticulture (Zone-01), Bengaluru Central City Corporation, Bangalore.

G) Tenderers are subjected to the provisions of KTPP (Amendment) Rules 2017 and selected works in Randomization shall be reserved for participation by tenderers belonging to the scheduled castes & scheduled tribes.

H) Tender conditions shall be followed as per KWs

TABLE

Sl no	Ward no	Name of the work	Estimate cost	EMD Amount	Duration / Period of Maintenance (in months)
1	23	Maintenance of Parks in Ward No.23 Jogupalya	2475000.00	49,500	12 Months

Calendar of events as follows:

- Date of Notification : 22.06.2026
- Tender can be downloaded from : 25.06.2026
- Pre bid Meeting : 29.06.2026 at 11.30 AM
- Tender Closing Date : 06.07.2026 at 4.30 PM
- Technical bid opening date : 08.07.2026 at 11.30 AM
- Financially bid opening date : After Approval of Technical bid.

Note:

Aspiring Bidders/contractors who have not registered in e – procurement should register before participating through the website https://kppp.karnataka.gov.in

a. Before submission of online bids, bidders must ensure that scanned copies of the necessary documents been attached with bid.

b. All the required information required bids must be filled and submitted online.

c. For details, registration and e- payment visit GOK e-procurement website. https://kppp.karnataka.gov.in or contact e- procurement Helpdesk at 080-22371090, 22373788.

d. This tender notice can also be seen on the GBA Website www.bbmp.gov.in

e. Any other details regarding the above work/service and other information obtained from the above office during office hours.

Sd/-
Senior Assistant Director of Horticulture
(Zone-01)
B.C.C.C. BENGALURU.

Copy Submitted to:

1 The Commissioner, BCCC for kind information.
2 The Additional Commissioner (Development), BCCC for kind information.
3 Joint Commissioner, BCCC (Zone-01) for kind information.
4 Joint Director (Horticulture) , GBA for kind information
5 Deputy Controller Finance, BCCC for information.
6 The Public Relation Officer, Bengaluru urban district with a request to publish the same in the district tender bulletin.
7 Office Notice Board.

Senior Assistant Director of Horticulture
(Zone-01)
B.C.C.C. BENGALURU.

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1. Scope of Tender

1.1 The Senior Assistant Director of Horticulture (Zone-01), B.C.C.C. invites tenders from Contractors any state or Central Govt. Organization for the above tender work (as defined in these documents and referred to as "the works") detailed in the Table given in the Invitation for Tenders (IFT). The tenderers may submit tenders for the **work** (Maintenance of Parks in Ward No.23 Jogupalya) **detailed in the table given in BOQ.**

2. Eligible Tenderers

2.1

a. For general category works:

Tenderer should submit work done certificate of at least one similar work (Maintenance of Horticulture works in Parks) to an extent of 50% of the total tendered amount during last five financial years (i.e 2021-2022, 2022-23, 2023-24, 2024-25 & 2025-26) of its work. The work done certificate should duly certified by the competent authorities (Central Govt/State Govt / Govt Boards / Govt Corporation). **Work done certificate will not be considered if Work carried through contract labour.**

b. For Scheduled Caste & Scheduled Tribes reserved works:

Tenderer should submit work done certificate of at least one similar work (Maintenance of Horticulture works in Parks) to an extent of 25% of the total tendered amount during last five financial years (i.e 2021-2022, 2022-23, 2023-24, 2024-25 & 2025-26) of its work. The work done certificate should duly certified by the competent authorities (Central Govt/State Govt / Govt Boards / Govt Corporation). **Work done certificate will not be considered if Work carried through contract labour.**

d. For general category works: Achieved in at least two financial years a minimum financial turnover of Rs….. (**usually not less than two times the estimated** annual payment under this contract) during last Three financial years (i.e 2023-24, 2024-25 & 2025-26) attested by the Chartered Accountant with UDIN Number.

e. For Scheduled Caste & Scheduled Tribes reserved works:

Achieved in at least One financial year a minimum financial turnover of Rs….. (**usually not less than two times the estimated** annual payment under this contract) during last Three financial years (i.e 2023-24, 2024-25 & 2025-26) attested by the Chartered Accountant with UDIN Number.

f. The Tenderer should submit valid Labour Department License, P.F & ESI registration Certificate, ESI and EPF Payment Challans of Latest months, ITR with Acknowledgement of Last Two Years (Assessment Year 2024-25, 2025-26) & TDS Annual Certificate (26 AS) (Last 2 Years i.e. Financial Year 2024-25 & 2025-26) (26AS), valid PAN card and GST registration Certificate copies and GST returns 3B Paid Challans of Latest 6 Months(Octomber-2025 to March-2026) along with tender document. Contractor shall fully comply provisions of various applicable labour laws provisions of the following enactments and other enactments as applicable for such contracts.

- Contract Labour (R&A) Act 1970 and rules 1971.
- Payment of Wages Act.
- Minimum Wages act 1948, Karnataka Rules 1952
- Employees State Insurance Act 1948, Rules and regulations 1950
- Employees Provident Fund Act 1952 and Pension Scheme 1995
- Karnataka Shops and Commercial Establishment Act 1961

i) As per the Employees' State Insurance Act, 1948 (ESI Act), the employer is responsible for registering the employees and paying the ESIC contribution for them. In this case, the contractor is the employer of the labourers and is responsible for registering them and paying their ESIC contribution. Hence you're hereby advised to submit the the latest 12 Months (March-2025 to March-2026) ESIC Statement and Paid Challan Details along with Registration Certificate in Form C-11 of the Act.

ii) As per the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF Act), the employer is responsible for registering the employees and paying the Provident Fund (PF) contribution for them. In this case, the contractor is also responsible for registering the labourers and paying their PF contribution. the latest 12 Months (March-2025 to March-2026) ECR & PF Paid Challan along with labour details and Registration Certificate Contractor must pay atleast ____ labour PF as per the minimum labour requirement for park maintenance . contractor paying less number of labour PF is liable for rejection) Any establishment employing even less than 20 persons can be covered voluntarily u/s 1(4) of the Act.

Note:- Selection of the tender is based on the turnover and ECR & PF paid challans details hence have to submit all the documents compulsory

f. Tenderers applying for reserved tenders must furnish the document

g. of caste certificate and **DOMICILE CERTIFICATE**(**Residential Certificate is not acceptable**) as per Finance Department Letter dated: 13.08.2019) as per GOK order

2.2 **Tenders from Joint ventures are not acceptable.**

3. Tender capacity:

3.1 **Assessed available tender capacity = (A*N*1.5 - B)**

where

A = Maximum value of Horticulture Landscape Development works executed in any one year during the last five years

N = Number of years prescribed for completion of the works for which tenders are invited.

B = Value, at ———— (price level), of existing commitments and on-going works to be completed during the year

Note: The statements showing the value of existing commitments and on-going works as well as the stipulated period of completion remaining for each of the works listed should be countersigned by that particular tender calling authority.

3.2 Even though the tenderers meet the above criteria, they are subject to be disqualified if they have:

- made misleading or false representations in the forms, statements and attachments submitted in proof of the qualification requirements; and/or
- record of poor performance such as abandoning the works, not properly completing the contract, inordinate delays in completion, litigation history, or financial failures etc.; and/or
- participated in the previous Tender for the same work and had quoted unreasonably high tender prices and could not furnish rational justification.
- Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the Government of Karnataka and The Contractor should not involve in any of the criminal offense.
- All Xerox Documents uploaded by the bidder should be attested by notary.

3.3 Duration of the tender should be 12 months from the date of work order.

B. Tender documents

4. Content of Tender documents

4.1 The set of tender documents shall have all the Sections given in Page 2:

4.2 NA

5. Amendment of Tender documents

5.1 Before the deadline for submission of tenders, the Employer may modify the tender documents by issuing addenda.

5.2 Any addendum thus issued shall be part of the tender documents and shall be communicated in writing or by cable to all the purchasers of the tender documents.

5.3 To give prospective tenderers reasonable time in which to take an addendum into account in preparing their tenders, the Employer shall extend as necessary the deadline for submission of tenders, in accordance with Sub-Clause 12.2 below.

6. Site visit:

6.1 The Tenderer at his own responsibility and risk is encouraged to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the Tender and entering into a contract for Horticulture Park Maintenance Works. The cost of visiting the Site shall be at the Tenderer's own expense.

6.2 Contractors against whom repeated complaints are received from higher authorities, local public representatives such as MLA/MP/MLC, Government Departments regarding poor park maintenance, non-performance, abandonment of works, or failure to make timely payment of wages to gardeners/labourers, and who have been issued more than two notice by the Horticulture Department within GBA limits for poor performance, shall be considered liable for rejection under the Technical Bid criteria.

C. Preparation of Tenders

6. Documents comprising the Tender

6.1 The tender submitted by the Tenderer shall comprise the following:

(a) The Tender (in the format indicated in Section 3).

(b) Priced Bill of Quantities;

(d) Qualification Information Form and Documents;

and any other materials required to be completed and submitted by tenderers in accordance with these instructions. **The documents listed under Sections 3, 5 and 8 shall be filled in without exception.**

7. Tender prices

7.1 The contract shall be for the whole works as described in Sub-Clause 1.1, based on the priced Bill of Quantities submitted by the Tenderer.

7.2 The Tenderer shall fill in rates and prices and line item total (both in figures and words) for all items of the Works described in the Bill of Quantities along with total tender price (both in figures and words). *Items for which no rate or price is entered by the Tenderer will not be paid for by the Employer when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities.* Corrections, if any, shall be made by crossing out, initialing, dating and rewriting.

7.3 All duties, taxes, and other levies payable by the contractor under the contract, or for any other cause, shall be included in the rates, prices and total Tender Price submitted by the Tenderer.

7.4 The rates and prices quoted by the Tenderer shall be fixed for the duration of the Contract and shall not be subject to adjustment on any account.

8. Tender validity

8.1 Tenders shall remain valid for a period not less than 180 days after the deadline date for tender submission specified in Clause 12. A tender valid for a shorter period shall be rejected by the Employer as non-responsive.

8.2 In exceptional circumstances, prior to expiry of the original time limit, the Employer may request that the tenderers may extend the period of validity for a specified additional period. The request and the tenderers' responses shall be made in writing or by cable. A tenderer may refuse the request without forfeiting his earnest money deposit. A tenderer agreeing to the request will not be required or permitted to modify his tender, but will be required to extend the validity of his earnest money deposit for a period of the extension, and in compliance with Clause 9 in all respects.

9. Earnest money deposit

9.1 EMD amount as % of the estimated cost of the work put to tender

a) Upto Rs.20 lakh – 2.5% (Reservation Category Works 1.25%)

b) Rs.20 lakh and above upto Rs.1 crore – 2% subject to a minimum of Rs.50,000/- (Reservation Category Works 1% subject to a minimum of Rs.25,000/-)

c) Rs.1 crore and above upto Rs.10 crore – 1.5% subject to a minimum of Rs.2,00,000/-

d) Rs.10 crore and above - 1% subject to a minimum of Rs.15,00,000/-

9.2 NA.

9.3 NA.

9.4 NA

9.5 NA

9.6 NA

10. Format and signing of Tender

10.1 NA

10.2 NA

10.3 NA.

D. Submission of Tenders

11. Sealing and marking of tenders

Tenderer shall submit the Tender document electronically before the submission date and time published. The document for submission shall be uploaded in PDF format and submitted in the order mentioned below.

1. Content sheet with name of folder / file, No of pages in each folder / file and size of the folder/file.

FIRST COVER /FOLDER (TECHNICAL PART)

2. As per Section 3 - Qualification information (Reffer Annexure 3)

a. Qualification information summary sheets

b. Affidavit as per the format attached in qualification information.

c. Brief description of tenderer with the details of contact person for communication with BBMP

d. Attested copy of Registration certificate of the contractor

e. NA

f. Experience & qualification of key persons as per Table 5 of qualification information.

g. Line of credit and details of tenderer's bank with reference as per format attached in qualification information.

h. NA

i. NA

SECOND COVER/FOLDER (FINANCIAL PART)

a. Form of tender as per section 4 (I) of tender document.

b. Priced Bill of Quantity.

c. Any other materials required to be completed and submitted by Tenderers in accordance with ITT.

12. Deadline for submission of the Tenders

12.1 In online e-procurement system, tenderer shall not be able to submit the bid after the bid submission time and date as the icon or the task in the e-procurement portal will not be available.

12.2 The Employer may extend the deadline for submission of tenders by issuing an amendment in accordance with Clause 5, in which case all rights and obligations of the Employer and the Tenderers previously subject to the original deadline will then be subject to the new deadline.

13. Late Tenders

13.1 In online e-procurement system, you shall not be able to submit the bid after the bid submission time and date as the icon or the task in the e-procurement portal will not be available.

14. Modification and Withdrawal of Tenders

14.1 Tender has all the time to modify and correct or upload any relevant document in the portal till Bid submission date and time, as published in the e-procurement portal.

E. Tender opening and evaluation

15. Opening of First Cover of all Tenderers and evaluation to determine qualified Tenderers:

15.1 The Employer will open online the First Covers of all the Tenders received through e-procurement portal, in the presence of the Tenderers or their representatives who choose to attend on the date and the place specified in the e-procurement portal. In the event of the specified date of Tender opening being declared a holiday for the Employer, the Tenders will be opened at the appointed time and location on the next working day.

15.2 NA

15.3 NA

1 5.4 The Employer shall prepare minutes of the Tender opening, including the information disclosed to those present in accordance with Sub-Clause 15.3.

16. Process to be confidential

16.1 Information relating to the examination, clarification, evaluation, and comparison of Tenders and recommendations for the award of a contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced. Any effort by a Tenderer to influence the Employer's processing of Tenders or award decisions may result in the rejection of his Tender.

17. Clarification of Tenders

17.1 To assist in the examination, evaluation, and comparison of Tenders, the Employer may, at his discretion, ask any Tenderer for clarification of his Tender, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, but no change in the price or substance of the Tender shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Tenders in accordance with Clause 19.

17.2 Subject to sub-clause 17.1, no Tenderer shall contact the Employer on any matter relating to its Tender from the time of the Tender opening to the time the contract is awarded. If the Tenderer wishes to bring additional information to the notice of the Employer, it should do so in writing.

17.3 Any effort by the Tenderer to influence the Employer in the Employer's Tender evaluation, Tender comparison or contract award decisions may result in the rejection of the Tenderers' Tender.

18. Examination of Tenders and determination of responsiveness

18.1 A substantially responsive Tender is one which conforms to all the terms, conditions, and specifications of the Tender documents, without material deviation or reservation. A material deviation or reservation is one (a) which affects in any substantial way the scope, quality, or performance of the Works; (b) which limits in any substantial way, inconsistent with the Tender documents, the Employer's rights or the Tenderer's obligations under the Contract; or (c) whose rectification would affect unfairly the competitive position of other Tenderers presenting substantially responsive Tenders.

18.2 If a Tender is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

19. Correction of errors

19.1 Tenders determined to be substantially responsive will be checked by the Employer for any arithmetic errors. Errors will be corrected by the Employer as follows:

(a) where there is a discrepancy between the rates in figures and in words, the lower of the two will govern; and

(b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern.

19.2 The amount stated in the Tender will be adjusted by the Employer in accordance with the above procedure for the correction of errors and, with the concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount the Tender will be rejected,

20. Evaluation and comparison of Tenders

20.1 The Employer will evaluate and compare only the Tenders determined to be substantially responsive in accordance with Clause 18.

20.2 In evaluating the Tenders, the Employer will determine for each Tender the evaluated Tender Price by adjusting the Tender Price as follows:

(a) making any correction for errors pursuant to Clause 19; and

(b) making appropriate adjustments to reflect discounts or other price modifications offered in accordance with Sub Clause 14.5.

20.3 The Employer reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the Tender documents or otherwise result in unsolicited benefits for the Employer shall not be taken into account in Tender evaluation.

F. Award of Contract

21. Awardcriteria

21.1 Subject to Clause 22, the Employer will award the Contract to the Tenderer whose Tender has been determined to be substantially responsive to the Tender documents and who has offered the lowest evaluated Tender Price, provided that such Tenderer has been determined to be (a)

eligible in accordance with the provisions of Clause 2, and (b) qualified in accordance with the provisions of Clause 3.

22. Employer's right to accept any Tender and to reject any or all Tenders

22.1 Notwithstanding Clause 21, the Employer reserves the right to accept or reject any Tender, and to cancel the Tender process and reject all Tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected Tenderer or Tenderers or any obligation to inform the affected Tenderer or Tenderers of the grounds for the Employer's action.

23. Notification of award and signing of Agreement

23.1 The Tenderer whose Tender has been accepted will be notified of the award by the Employer prior to expiration of the Tender validity period by cable, telex or facsimile confirmed by registered letter. This letter (hereinafter and in the *Conditions of Contract* called the "Letter of Acceptance") will state the sum that the Employer will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").

23.2 The notification of award will constitute the formation of the Contract, subject only to the furnishing of a performance security in accordance with the provisions of Clause 24.

23.3 The Agreement will incorporate all agreements between the Employer and the successful Tenderer. It will be kept ready for signature of the successful Tenderer in the office of Employer within 07 days following the notification of award along with the Letter of Acceptance. Within 07 days of receipt, the successful Tenderer will sign the Agreement and deliver it to the Employer.

23.4 Upon the furnishing by the successful Tenderer of the Security deposit, the Employer will promptly notify the other Tenderers that their Tenders have been unsuccessful.

24. Security deposit

24.1 Within 07 days of receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Employer a Security Deposit by Bank Guarantee in favour of Commissioner BCCC payable at Bengaluru **for an amount equivalent to 5% of the Contract price and difference amount in the form of Bank Guarantee(separately)** in favour of Commissioner BCCC payable at Bengalore

24.2 NA

24.3 Failure of the successful Tenderer to comply with the requirements of Sub-Clause 24.1 shall constitute sufficient grounds for cancellation of the award and forfeiture of the earnest money deposit.

25. Corrupt or Fraudulent practices

25.1 The BCCC requires that the Tenderers observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, BCCC:

(a) will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;

(b) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a BCCC contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a BCCC contract.

25.2 Furthermore, Tenderers shall be aware of the provision stated in sub-clause 43.2 of the Conditions of Contract.

SECTION 3: FORMS OF TENDER, AND QUALIFICATION INFORMATION

TABLE OF FORMS:

- **FORM OF TENDER**
- **QUALIFICATION INFORMATION**
- **LETTER OF ACCEPTANCE**
- **NOTICE TO PROCEED WITH THE WORK**
- **AGREEMENT FORM**

Form of Tender

NA

Qualification Information

The information to be filled in by the Tenderer hereunder will be used for purposes of computing Tender capacity as provided for in Clause 3 of the Instructions to Tenderers. This information will not be incorporated in the Contract.

1.1 NA

1.2 Total value of Horticultural work works executed and payments received in the last five years (in Rs. Lakh)

2021-22_____
2022-23_____
2023-24_____
2024-25_____
2025-26_____

Or
Documents pertaining to retired horticulture officer or horticulture degree certificate

1.3 NA.

(A) NA
(B)NA
1.4. Name, address, and telephone, telex, and fax numbers of the Tenderers' bankers who may provide references if contacted by the Employer.

Letter of Acceptance

(letterhead paper of the Employer)

……..[date]

To: ……
[name and address of the Contractor]

Dear Sirs,

This is to notify you that your Tender dated: ……. for execution of the …… [name of the contract and identification number, as given in the Instructions to Tenderers] for the Contract Price of Rupees……..(……) [amount in words and figures], as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by our Agency.

You are hereby requested to furnish Security deposit, in the form detailed in Para 24.1 of ITT for an amount of Rs…….. within 07 days of the receipt of this letter of acceptance valid up to 30 days from the date of expiry of Maintainance period i.e. up to ..... and sign the contract, failing which action as stated in Para 24.3 of ITT will be taken.

Yours faithfully,

Authorized Signature

Name and Title of Signatory

Name of Agency

Issue of Notice to proceed with the work

(letter head of the Employer)

…… (date)

To

———————————————— (name and address of the Contractor)

————————————————

————————————————

Dear Sirs:

Pursuant to your furnishing the requisite Security deposit as stipulated in ITT Clause 24.1 and signing of the contract agreement for the construction of ……*(name of the work)*a Tender Price of Rs……, you are hereby instructed to proceed with the execution of the said works in accordance with the contract documents.

Yours faithfully,
(Signature, name and title of signatory
Authorized to sign on behalf of Employer)

Agreement Form

Agreement

This agreement, made the ……day of ……20 ……., between…… [name and address of Employer] (herein after called "the Employer") of the one part and …… …… …….. [name and address of contractor] (hereinafter called "the Contractor") of the other part.

Whereas the Employer is desirous that the Contractor …… ……[name and identification number of Contract] (hereinafter called "the Works") and the Employer has accepted the Tender by the Contractor for the execution and completion of such Works and the remedying of any defects therein at a contract price of Rupees.....

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement, words and expression shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement.
2. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all aspects with the provisions of the Contract.
3. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying the defects wherein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.
4. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz:
   - i) Letter of Acceptance;
   - ii) Notice to proceed with the works;
   - iii) Contractor's Tender;
   - iv) Contract Data;
   - v) Conditions of contract (including Special Conditions of Contract);
   - vi) Specifications;
   - vii) Drawings;
   - viii) Bill of Quantities; and
   - ix) Any other document listed in the Contract Data as forming part of the contract.

In witness whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

The Common Seal of ……..
was hereunto affixed in the presence of:
Signed, Sealed and Delivered by the said ……..
……..
in the presence of:
Binding Signature of Employer ……..

Binding Signature of Contractor…….

SECTION 4: CONDITIONS OF CONTRACT

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A. General

1. Definitions

1.1 Terms which are defined in the Contract Data are not also defined in the Conditions of Contract but keep their defined meanings. Bold letters are used to identify defined terms.

Bill of Quantities means the priced and completed Bill of Quantities forming part of the Tender.
Compensation events are those defined in Clause 34 hereunder.
The **Completion Date** is the date of completion of the Works as certified by the Employer in accordance with Sub Clause 38.1.
The **Contract** is the contract between the Employer and the Contractor to execute, complete and maintain the Works. It consists of the documents listed in Clause 2.3 below.
The **Contract Data** defines the documents and other information which comprise the Contract.
The **Contractor** is a person or corporate body whose Tender to carry out the Works has been accepted by the Employer.
The **Contractor's Tender** is the completed Tender document submitted by the Contractor to the Employer.
The **Contract price** is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.
Days are calendar days; **months** are calendar months.
A **Defect** is any part of the Works not completed in accordance with the Contract.
The **Defects liability period** is the period named in the Contract Data and calculated from the Completion Date.
The **Employer** is the party who will employ the Contractor to carry out the Works.
Equipment is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.
The **Initial Contract price** is the Contract Price listed in the Employer's Letter of Acceptance.
The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the Contract Data. The Intended Completion Date may be revised only by the Employer by issuing an extension of time.
Materials are all supplies, including consumables, used by the contractor for incorporation in the Works.
Plant is any integral part of the Works which is to have a mechanical, electrical, electronic or chemical or biological function.
The **Site** is the area defined as such in the Contract Data.
Specification means the Specification of the Works included in the Contract and any modification or addition made or approved by the Employer.
The **Start Date** is given in the Contract Data. It is the date when the Contractor shall commence execution of the works. It does not necessarily coincide with any of the Site Possession Dates.
A **Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract which includes work on the Site.
A **Variation** is an instruction given by the Employer which varies the Works.
The **Works** are what the Contract requires the Contractor to construct, install, and turn over to the Employer, as defined in the Contract Data.

2. Interpretation

2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal

meaning under the language of the Contract unless specifically defined. The Employer will provide instructions clarifying queries about the Conditions of Contract.

2.2 The documents forming the Contract shall be interpreted in the following order of priority:

(1) Agreement
(2) Letter of Acceptance, notice to proceed with the works
(3) Contractor's Tender
(4) Contract Data
(5) Conditions of Contract
(6) Specifications
(7) Drawings
(8) Bill of quantities and
(9) any other document listed in the Contract Data as forming part of the Contract.

3. Law governing contract

3.1 The law governing the Contract is the Laws of India supplanted by the Karnataka Local Acts.

4. Employer's decisions

4.1 Except where otherwise specifically stated, the Employer will decide contractual matters between the Employer and the Contractor.

5. Delegation

5.1 The Employer may delegate any of his duties and responsibilities to other people after notifying the Contractor and may cancel any delegation after notifying the Contractor.

6. Communications

6.1 Communications between parties which are referred to in the conditions are effective only when in writing. A notice shall be effective only when it is delivered (in terms of Indian Contract Act).

7. Subcontracting

7.1 Deleted

8. Other Contractors

8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Employer.

9. Personnel

9.1 The Contractor shall employ the technical personnel (of number and qualifications) as may be stipulated by GOK from time to time during the execution of the work. The technical staff so employed shall be available at site as may be stipulated by the Employer.

9.2 If the Employer asks the Contractor to remove a person who is a member of the Contractor's staff or his work force stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.

10. Employer's and Contractor's risks

10.1 The Employer carries the risks which this Contract states are Employer's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.

11. Employer's risks

11.1 The Employer is responsible for the excepted risks which are (a) in so far as rebellion, riot commotion or disorder or (b) a cause due solely to the design of the Works, other than the Contractor's design.

12. Contractor's risks

12.1 All risks of loss of or damage to physical property and of personal injury and death which arise during and in consequence of the performance of the Contract other than the excepted risks are the responsibility of the Contractor.

13. Queries about the Contract Data

13.1 The Employer will clarify queries on the Contract Data.

14. Contractor to construct the Works

14.1 The Contractor shall construct the Works in accordance with the Specification and Drawings.

15. The Works to be completed by the Intended Completion Date

15.1 The Contractor may commence execution of the Works on the Start Date and complete them by the Intended Completion Date.

16. Safety

16.1 The Contractor shall be responsible for the safety of all activities on the Site.

17. Discoveries

17.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site is the property of the Employer. The Contractor is to notify the Employer of such discoveries and carry out the Employer's instructions for dealing with them.

18. Possession of the Site

18.1 The Employer shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the Contract Data the Employer is deemed to have delayed the start of the relevant activities and this will be Compensation Event.

19. Access to the Site

19.1 The Contractor shall allow the Employer and any person authorized by the Employer access to the Site, to any place where work in connection with the Contract is being carried out or is intended to be carried out and to any place where materials or plant are being manufactured / fabricated / assembled for the works.

20. Instructions

20.1 The Contractor shall carry out all instructions of the Employer which comply with the applicable laws where the Site is located.

B. Time Control

21. Program

21.1 Within the time stated in the Contract Data the Contractor shall submit to the Employer for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works.

21.2 The Employer's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Employer again at any time. A revised Program is to show the effect of Variations and Compensation Events.

22. Extension of the Intended Completion Date

22.1 The Employer shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date.

22.2 The Employer shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Employer for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information.

23. Delays ordered by the Employer

23.1 The Employer may instruct the Contractor to delay the start or progress of any activity within the Works.

24. Management meetings

24.1 The Employer may require the Contractor to attend a management meeting. The business of a management meeting shall be to review the progress achieved and the plans for remaining work.

24.2 The responsibility of the parties for actions to be taken is to be decided by the Employer either at the management meeting or after the management meeting and stated in writing to be distributed to all who attended the meeting.

C. Quality Control

25. Identifying defects

25.1 The Employer shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Employer may instruct the Contractor to search for a Defect and to uncover and test any work that the Employer considers may have a Defect

26. Tests

26.1 If the Employer instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect the test shall be a Compensation Event.

27. Correction of defects

27.1 The Employer shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion and is defined in the Contract Data. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.

27.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Employer's notice.

28. Uncorrected defects

28.1 If the Contractor has not corrected a Defect within the time specified in the Employer's notice, the Employer will assess the cost of having the Defect corrected, and the Contractor will pay this amount.

D. Cost Control

29. Bill of Quantities (BOQ)

29.1 The BOQ shall contain items described .

29.2 The BOQ is used to calculate the Contract Price.

30. Variations

(f) NA

30.2 The Contractor shall be bound to carry out the work in accordance with any instructions in this connection, which may be given to him in writing by the Employer and such alteration shall not vitiate or invalidate the contract.

30.3 NA

30.4 The Contractor shall promptly request in writing to the Employer to confirm verbal orders and the officer issuing oral instructions shall confirm it in writing within 30 days, failing which the work shall be carried out as though there is no variation. In case variation is approved it shall be accompanied by BOQ, failing which the contractor shall be responsible for deviation if any. Further, approval of Govt. / BBMP has to be obtained for the variation exceeding 5%.

31. Payments for Variations

31.1 NA

31.2 NA

31.3 NA

31.4 NA

31.5 NA

31.6 NA

31.7 NA

32. Submission of bills for payment

32.1 The Contractor shall submit to the Employer monthly bills of the value of the work completed less the cumulative amount paid previously. Awarded amount which includes of all taxes and services charges as per the Different order issued by the Government.

32.2 The Employer shall check the Contractor's bill and determine the value of the work executed which shall comprise of (i) value of the quantities of the items in the BOQ completed and (ii) valuation of Variations and Compensation Events.

32.3 The Employer may exclude any item paid in a previous bill or reduce the proportion of any item previously paid in the light of later information.

33. Payments

33.1 NA

33.2 Items of the Works for which no rate or price has been entered in will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.

34. Compensation events

34.1 NA

.

34.2 NA

34.3 NA

34.4 NA

35. Tax

35.1 The rates quoted by the Contractor shall be deemed to be inclusive of the sales and other taxes that the Contractor will have to pay for the performance of this Contract. The Employer will perform such duties in regard to the deduction of such taxes at source as per applicable law.

36. Liquidated damages

36.1 NBA

36.2 NA

37. Cost of repairs

37.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

E. Finishing the Contract

38. Completion

38.1 The Contractor shall request the Employer to issue a Certificate of Completion of the Works and the Employer will do so upon deciding that the Work is completed.

39. Taking over

39.1 The Employer shall take over the Site and the Works within seven days of issuing a certificate of Completion.

40. Final account

40.1 NA

41. As built drawings

41.1 NA
41.2 NA

42. Termination

42.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

42.2 Fundamental breaches of Contract include, but shall not be limited to the following:

(a) the Contractor stops work for 45 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Employer;

(b) Deleted

(c) The Contractor becomes bankrupt or goes into liquidation other than for a reconstruction or amalgamation;

(d) Deleted

(e) the Employer gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Employer;

(f) the Contractor does not maintain a security which is required;

(g) NA

(h) if the Contractor, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in the executing the Contract.

For the purpose of this paragraph : "corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution. "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Borrower, and includes collusive practice among Tenderers (prior to or after Tender submission) designed to establish Tender prices at artificial non-competitive levels and to deprive the Borrower of the benefits of free and open competition."

42.3 When either party to the Contract gives notice of a breach of contract to the Employer for a cause other than those listed under Sub Clause 42.2 above, the Employer shall decide whether the breach is fundamental or not.

42.4 Notwithstanding the above, the Employer may terminate the Contract for convenience.

42.5 If the Contract is terminated the Contractor shall stop work immediately, make the Site safe and secure and leave the Site as soon as reasonably possible.

43. Payment upon Termination

43.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Employer shall prepare bill for the value of the work done less advance payments received up to the date of the bill, less other recoveries due in terms of the contract, less taxes due to be deducted at source as per applicable law and less the percentage to apply to the work not completed as indicated in the Contract Data. Additional Liquidated Damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor the difference shall be a debt payable to the Employer.

43.2 If the Contract is terminated at the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Employer shall prepare bill for the value of the work done, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works and less advance payments received up to the date of the certificate, less other recoveries due in terms

of the contract, and less taxes due to be deducted at source as per applicable law and make payment accordingly.

44. Property

44.1 All materials on the Site, Plant, Equipment, Temporary Works and Works are deemed to be the property of the Employer, if the Contract is terminated because of a Contractor's default.

45. Release from performance

45.1 If the Contract is frustrated by any event entirely outside the control of either the Employer or the Contractor the Employer shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which commitment was made.

F. Special Conditions of Contract

1. **Labour :**

The Contractor shall, unless otherwise provided in the Contract, make his own arrangements for the engagement of all staff and labour, local or other, and for their payment, housing, feeding and transport.

The Contractor shall, if required by the Employer, deliver to the Employer a return in detail, in such form and at such intervals as the Employer may prescribe, showing the staff and the numbers of the several classes of labour from time to time employed by the Contractor on the site and such other information as the Employer may require.

2. **Compliance with labour regulations**:

During continuance of the contract, the Contractor and his sub-contractors shall abide at all times by all existing labour enactments and rules made there under, regulations, notifications and bye laws of the State or Central Government or local authority and any other labour law (including rules), regulations, bye laws that may be passed or notification that may be issued under any labour law in future either by the State or the Central Government or the local authority. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of contravention of any of the provisions of any Act or rules made there under, regulations or notifications including amendments. If the Employer is caused to pay or reimburse, such amounts as may be necessary to cause or observe, or for non-observance of the provisions stipulated in the notifications/bye laws/Acts/Rules/regulations including amendments, if any, on the part of the Contractor, Employer shall have the right to deduct any money due to the Contractor including his amount of security deposit. The Employer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.

The employees of the Contractor and the Sub-Contractor in no case shall be treated as the employees of the Employer at any point of time.

3. **Protection of Environment:**

The contractor shall take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of his methods of operation. During continuance of the contract, the contractor and his sub-contractors shall abide at all times by all existing enactments on environmental protection and rules made there under, regulations, notifications and bye-laws of the State or Central Government, or local authorities and any other law, bye-law, regulations that may be passed or notification that may be issued in this respect in future by the State or Central Government or the local authority.

4. In the case of the death of a Contractor after executing the agreement / commencement of the work, his legal heir, if an eligible registered Contractor and willing can execute and complete the work at the accepted tender rates irrespective of the cost of the work.

5. The successful bidder should furnish the difference of amount (ie., difference of Estimated cost and Quoted amount) if quoted below the CSR in the form of D.D in favour of the Chief Commissioner before entering to Agreement

6.

[Add other Clauses specific to the work for which tenders are invited.]

SECTION 5: CONTRACT DATA

NA

SECTION 6: SPECIFICATIONS

As per the specifications mentioned in the BOQ

SECTION 7: DRAWINGS

NA

SECTION 8
PART-A

Maintenance of Parks in Ward No.23 Jogupalya

Sl.No	List of Parks	Area in Sq.mtr	Approved rate per sq.mtr per Year (in Rs)	Amount in Rs. (For 12 Months)
1	Cambridge road Udani layout Triangular park	532	140	74480.00
2	Cambridge road 1st cross Gundappa park	3420	130	444600.00
2a	Repairs of pipeline & irrigation system at Cambridge road 1st cross Gundappa park	3420	270000	270000.00
3	Domlur 2nd stage 12 & 13 th main (next to Cremetorium) park	5865	110	645150.00
4	HAL 2nd stage 13th main near Sri Rama temple park	687	140	96180.00
5	Domlur 10th Main Road park (Shiva shakthi Manidra/Dr.Ambedkar Park Indiranagara)	7313	110	804430.00
6	Someshwara Cambridge layout 1st A cross park	980	140	137200.00
			Total	**2472040.00**
			Miscellaneous	2960.00
			Total	**2475000.00**
	Rs. Twenty Four Lakhs Seventy Five Thousand only			

(*Copy of estimate to be pasted deleting price and other taxes and duties levied and during the time of uploading should be deleted*)

PART-B

No of Gardeners , excluding Gagman's, other skilled workers and etc.,

Sl No	List of Parks	No of Gardener
1	Cambridge road Udani layout Triangular park	**01**
2	Cambridge road 1st cross Gundappa park	
2a	Repairs of pipeline & irrigation system at Cambridge road 1st cross Gundappa park	
3	Domlur 2nd stage 12 & 13 th main (next to Cremetorium) park	**01**
4	HAL 2nd stage 13th main near Sri Rama temple park	**02**
5	Domlur 10th Main Road park (Shiva shakthi Manidra/Dr.Ambedkar Park Indiranagara)	
6	Someshwara Cambridge layout 1st A cross park	

PART-C

FINANCIAL BID FORMATE (should be uploaded in the portal)

Sl No.	Particulars	Amount	Percentage/Rate to be quoted by Bidders
1	Maintenance of Parks in Ward No.23 Jogupalya	2475000.00	_

Note:

(1) The estimated above said rates are inclusive of all Taxes and all other Statutory Payments levied under the existing/ amendment / enacted laws during the period of this contract and the client shall perform such duties in regard to the deduction of such tax may lawfully imposed. And should maintain all registers as per the Government orders. Above estimated rates which also includes service charges as per the Office Memorandum dated:06-01-2023 issued by the Ministry of Finance New Delhi.

(2) Item for which no rate or percentage has been entered in will not be paid for by the Employer when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities (refer: ITB Clause 7.2 and CC Clause 33.2).

(3) Finally unit rates and prices/ percentage shall be quoted by the Tenderer in Indian Rupees only.

(4) Where there is a discrepancy between the rates/percentage in figures and in words, the lower of the two will govern; [ITB Clause 19.1(a)]

(5) If the quoted rates/percentage by the bidders are same, then qualifier bidder will be selected on the basis of turnover and number of labors they have and it is calculated on the basis of ECR & EPF paid challans. The total no of labors will be deducted from the award of each contract. Qualifier bidder finally selected on the basis of available left over labors after awarding of each contract of each tender. Finally selection is based on the technical committee framed by the technical competent authority.

Annexure-1

Maintenance of Parks details
1. **Watering**: The plants and lawns in the Park/ Median should be watered frequently as depending upon the climate, soil and plant conditions; if sprinklers are made available, it can be used otherwise hose pipe can be used for Watering. Problems regarding pipeline damage during watering/maintenance should be repaired and taken care Tenderers.
2. **Weeding:** Weeding has to be done regularly in the entire park area including extra weed growth in the pathways, playing area and other remaining areas in the Park. Weeding should be done regularly once in a fortnight and the Weeds Collected should be used for Preparing Manure or it should be disposed from the park appropriately.
3. **Sweeping:** Sweeping of the Park Area has to be done daily. The Pathways, gym, Children Playing area, entire garden area/medians should be swept and kept free of fallen leaves, branches, flowers, dust etc. Dust bins in the park should be emptied and disposed properly and regularly. Any dead rodent, pets or animals found should be removed immediately and the Park/ median spaces should be free from foul smell. Play equipments, Gym equipments, Gazebo, Chairs and Other Adornments should be cleaned daily.
4. Maintenance of Shrubs, Edges, Ground Covers and other area by regular pruning, digging, so as to maintain the garden aesthetically
5. **Lawn mowing** should be done regularly every fortnight.
6. **Pruning and Digging** of soil around specimen plants in the parks should be carried out. Soil basins should be prepared around the hedges/ edges/trees/ shrubs/ground covers by digging the soil so as to maintain retention of water. This should be done before and after monsoon.
7. **Transportation** -plastic and other inert materials should be removed from the park and must be taken care of. The swept leaf materials should be used for preparation of Compost manure in the Park wherever is possible and the prepared compost manure should be used in the Park. All dead plants, branches & other waste materials should be removed regularly and transported outside the park at the risk of Tenderers. Garbage or leaf material should not be allowed to pile up especially during leaf shedding time. In case of any fire accident/ deaths due to this, concerned Tenderer will be held responsible
8. **Monitoring the park**: Monitoring the park by opening and closing of park gates as per scheduled time and safeguard the park area.

General Terms and Conditions:
1. All the above said rates are inclusive of all Taxes, Service charges and all other Statutory Payments levied under the existing/ amendment / enacted laws during the period of this contract and the client shall perform such duties in regard to the deduction of such tax may lawfully imposed. And should maintain all registers as per the Government orders.
2. And all the above said rates are inclusive of materials, equipments, other tools required for watering, digging, weeding, pruning, spraying pesticides, monitoring charges /watch and ward and for other works.
3. It is the prime responsibility of the approved Tenderer /Tenderer to take precautionary measures in order to safeguard the deployed workers. During the time of work any accident, injuries or death to the workers. The approved Contractor/Tenderer is solely responsible.
4. In case of subsequent defaults, the Employer may consider termination of contract and penalty should be imposed.
5. Any other instructions / works as may be issued by officials in charge from time to time.
6. The Employer reserves the right to accept or reject any tender and to cancel the tender process and reject all tenders at any time prior to award of Contract, without thereby incurring any liability to the affected Tenderer or Tenderers or any obligation to inform the affected Tenderers of the grounds for the Employer's action.